

UNITED STATES DISTRICT COURT
for the
Northern District of California

United States of America
v.
JUAN GUTIERREZ

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Case No.

Defendant(s)

CR
CRIMINAL COMPLAINT

Filed JUN 02 2015
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

15 70700 MAG

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 2, 2015 in the county of Santa Clara in the
Northern District of California, the defendant(s) violated:

Code Section

18 U.S.C. Section 922(g)(1)
18 U.S.C. Section 922(a)(1)(A)

Offense Description

Unlawful Possession of a Firearm by Person Convicted of a Felony
Manufacturing Firearms Without a License

MAXIMUM PENALTIES: For 18 U.S.C. Section 922(g)(1): 10 years
imprisonment; \$250,000 fine; 3 years supervised release; \$100 Special
Assessment Fee. For 18 U.S.C. Section 922(a)(1)(A): 5 years imprisonment;
\$250,000 fine; 3 years supervised release; \$100 Special Assessment Fee.

REQUESTED PROCESS: No bail warrant.

This criminal complaint is based on these facts:

See attached affidavit of Special Agent Tae-Kyun Kim of the ATF.

Approved as to form:


Marissa Harris, Assistant United States Attorney

Continued on the attached sheet.



Complainant's signature

Tae-Kyun Kim, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: June 3, 2015



Judge's signature
Nathanael M. Cousins
Printed name and title

City and state: San Jose, California

Nathanael M. Cousins

Printed name and title

No bail arrest warrant ordered as to
Juan Gutierrez. 
6/2/2015 11:30am Nathanael M. Cousins

AFFIDAVIT

I, Tae-Kyun Kim, Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), being duly sworn, hereby declare as follows:

I. INTRODUCTION

A. Professional Background

1. I am a Special Agent (“SA”) with the Bureau of Alcohol Tobacco, Firearms and Explosives (“ATF”) and have been so employed since April 2013. Prior to joining ATF, I served in the United States Air Force as a medic from 2001 to 2005. From 2006 to 2010, I was employed as a federal law enforcement officer with the Department of Homeland Security United States Secret Service (“USSS”). I was under the Special Operations Division as a member of the Counter-Sniper Team assigned to protect the President of the United States, and congressionally designated protectees from long range sniper threats; and to conduct security threat assessments and vulnerability assessments regarding USSS protectees. From 2010 to 2013, I was employed as a government contractor by the Central Intelligence Agency as a senior intelligence analyst.
2. I am currently assigned as a SA in the San Francisco Division, San Jose Field Office. In that capacity, I investigate violations of federal firearms, arson, and explosives laws. As a federal agent, I am authorized to investigate violations of the laws of the United States and I have the authority to execute search and arrest warrants issued under the authority of United States courts.

B. Purpose of Affidavit

3. This affidavit is being submitted in support of a criminal complaint and to request an issuance of an arrest warrant for JUAN GUTIERREZ (a.k.a. Juan Jose Sanchez GUTIERREZ, Juan Junior GUTIERREZ, Juan Sanchez GUTIERREZ, Juan J. GUTIERREZ, date of birth March 11, 1974, FBI #769349PAS, for violations of 18 U.S.C. § 922(a)(1)(A) (manufacturing firearms without a license) and 18 U.S.C. § 922(g)(1) (possession of firearm/ammunition by person convicted in any court of crime punishable by imprisonment for more than one year)).
4. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts necessary to establish probable cause to believe that from

approximately August 2014 to the current date, GUTIERREZ (1) engaged in the business of manufacturing firearms in violation of 18 U.S.C. § 922(a)(1)(A) and (2) possessed firearms/ammunition as a convicted felon in violation of 18 U.S.C. § 922(g)(1). The statements contained in the affidavit are based on information provided to me by law enforcement officers and my own investigations, as well as my training, experience, and knowledge of this investigation.

C. Technical Background

Definition of a “Firearm”

5. A “firearm” is “any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.” 18 U.S.C. § 921(a)(3)(A). This definition includes “the frame or receiver of any such weapon,” 18 U.S.C. § 921(a)(3)(B), and “any combination of parts either designed or intended” from which a firearm can be “readily assembled.” 18 U.S.C. § 921(a)(4)(C). A “receiver” under 18 U.S.C. § 921(a)(3)(B) includes a “lower receiver.”

Definition of “Ammunition”

6. “Ammunition” is defined as “ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.” 18 U.S.C. § 921(a)(17)(A).

The AR-15 Platform

7. An AR-15 is a semi-automatic, civilian-version of the .223-caliber cartridge M-16 rifle used by the United States military. Although AR-15 refers to the model produced by Colt Firearms (a firearms manufacturer), the term “AR-15” is used to refer to firearms similar to, and based upon, the Colt AR-15.

8. An AR-10 is a different model firearm that fires larger-sized ammunition than the AR-15 model. An AR-10 is a semi-automatic civilian version of the .308-caliber cartridge rifle. The basic AR-10 design was rescaled and substantially modified to accommodate the .223-caliber cartridge, and given the designation AR-15. ArmaLite (a firearms manufacturer) licensed the AR-10 and AR-15 designs to Colt Firearms. The AR-15 eventually became the M-16 rifle.

9. An AR-15-style rifle consists of many parts. The main five parts include: the (1) lower

receiver; (2) upper receiver; (3) stock; (4) barrel; and (5) magazine.

10. Most parts for a firearm (e.g., stocks, barrels, magazines) are not subject to regulation by ATF. Accordingly, these parts are often made by individuals and small businesses. For the most part, these gun parts can be bought and sold without reporting the sales and without requiring a background check.

11. The lower receiver is different than common gun parts. A lower receiver is considered a “firearm.” That means that the lower receiver, without any other parts at all, is regulated and controlled by ATF the same way as a completed firearm. This also means that the manufacture, sale, transfer, and disposition of lower receivers are regulated by ATF.

12. To manufacture an AR-15 lower receiver, a manufacturer may start with an AR-15 blank. An AR-15 blank is not considered a “firearm” by ATF. An AR-15 blank is a metal casting that is eventually converted into an AR-15 lower receiver by a manufacturing process.

- a. An AR-15 blank is also commonly referred to as a “blank,” “an 80%,” “an 80% blank,” “an 80% receiver,” “an 80% lower,” or “an AR-15 80%.” These terms developed based on the perception that the piece of metal was 80% of a firearm, and therefore unregulated by ATF. The term “80%” and variations of it are not used by ATF and are not officially recognized by ATF. ATF regulates “firearms.” An item that is not a “firearm” is not regulated by ATF and not assigned an official terminology.
- b. For purpose of this Affidavit, the term “AR-15 blank” will be used. At various points in this Affidavit, individuals will be quoted referring to an “80%.” This is unavoidable due to the necessity of using the precise quoted language. Where possible, however, your affiant added clarifying parentheticals to remind the reader that “80%” and variations of that term refer to an AR-15 blank.
- c. An AR-15 blank is converted into an AR-15 lower receiver through the use of specialized tools, typically a drill press or a computer numerical control machine (“CNC machine”), and precision measurement equipment. A CNC machine is an automated version of a drill press that is run by a computer. A drill press is operated

by hand. A CNC machine is operated by running a computer program that automates the process.

13. Using either a drill press or a CNC machine, the equipment operator drills, cuts, or mills cavities in specific locations on the AR-15 blank. In addition to using a drill press or a CNC machine, a “jig” is also used to drill out specific locations on the AR-15 blank. A “jig” is a metal piece that fits around the AR-15 blank. The jig serves as a pattern or guide so that the operator knows where to drill the holes into the AR-15 blank. Utilizing this process, the operator transforms the AR-15 blank into an AR-15 lower receiver by creating the precise shape and space necessary for the lower receiver to accept the parts that will allow the firing of a projectile. These shapes or cavities must be created to the exact specifications required. If these cavities are not formed to the exact specifications required, the firearm will not function. This process also creates the holes necessary to attach the upper receiver and barrel to the lower receiver. These parts (e.g., the hammer, bolt or breechblock, and firing mechanism) are the internal mechanical parts that combine with a trigger, firing pin, and other parts to form a functioning firearm.

14. This investigation deals with the manufacturing of AR-10 style lower receivers and firearms. In this case, GUTIERREZ purchased AR-10 blanks (unregulated, metal castings) and transformed them into AR-10 lower receivers (regulated firearms) and then assembled fully functional AR-10 rifles (regulated firearms). Unlike a firearm manufactured by a licensed manufacturer, these firearms are completely untraceable. They have no serial number. They have no manufacturer identification. Further, these firearms are sold by unlicensed individuals with no regard to the prohibited status of the purchaser or the legality of the firearm itself.

Federal Firearms License (FFL)

15. A person who manufactures and sells firearms is required to hold a federal firearms license (“FFL”) in accordance with 18 U.S.C. § 923(a). Licensees are required to mark the firearms in accordance with 18 U.S.C. § 923(i) and its implementing regulation, 27 C.F.R. § 478.92, which prescribes the identifying markings (including serial number and manufacturer name) and the manner in which each firearm is to be marked. Additionally, 18 U.S.C. § 923(g)(1)(A) and its implementing regulation, 27 C.F.R. § 478.123, include record keeping

requirements requiring the licensee to record specified information regarding the firearms manufactured and information regarding to whom the firearms are transferred.

a. In this particular case, JUAN GUTIERREZ is operating without a license and is manufacturing firearms without marking such firearms with a serial number or recording the number of firearms produced.

16. The requirements to hold an FFL apply to any person who is engaged in the business of manufacturing firearms. There is a loophole that permits an individual to manufacture a firearm for personal use without first obtaining an FFL, provided the firearm is not for sale and the person who made the firearm is not otherwise prohibited from possessing firearms.

a. As stated above, GUTIERREZ is manufacturing firearms without a license and without marking such firearms with a serial number or recording the number of firearms produced. GUTIERREZ is also prohibited from possessing firearms and ammunitions due to his status as a convicted felon.

D. Applicable Statutes

17. Manufacturing firearms without a license:

Under 18 U.S.C. § 922(a)(1)(A), “[i]t shall be unlawful for any person – except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms.”

18. Manufacturing such firearms without any identifying information, such as a serial number, that can be used to trace the weapon if it is involved in a crime:

Under 18 U.S.C. § 923(i), “licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe.”

19. Possession of Firearm/Ammunition by person convicted in any court of crime punishable by imprisonment for more than one year:

Under 18 U.S.C. § 922(g)(1), “[i]t shall be unlawful for any person - who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; to ship or transport in interstate or foreign commerce, or possess in or

affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

II. **FACTS ESTABLISHING PROBABLE CAUSE TO ARREST**

A. **Report of Juan GUTIERREZ engaged in the business of manufacturing firearms without a license and being a felon in possession of a firearm**

20. On or about August 26, 2014, a concerned citizen (who shall be referred to in this affidavit as CC1 to protect its identity) provided details to the Federal Bureau of Investigation (“FBI”) regarding GUTIERREZ. On or about October 22, 2014, CC1 was interviewed by the FBI and provided the following information: JUAN GUTIERREZ, residing at 863 Benton Street, Santa Clara, CA 95050, was once a member of the Norteños¹ criminal street gang and had joined the California State Militia. The group claimed to oppose local, state, and federal government and to hate any and all employees of government; to include law enforcement and military personnel. According to CC1, GUTIERREZ began to embrace the group’s ideology and made statements about hating the government. GUTIERREZ stated that governments do nothing for their citizens, held people back, and violated its citizens’ rights. Additionally, CC1 claimed that GUTIERREZ bragged about his current access to and training with firearms, despite the fact that GUTIERREZ has a felony record and is therefore not lawfully permitted to own or possess firearms. GUTIERREZ became angry after he was denied a California gun permit and started buying parts with other members of the California State Militia to build his own guns.

GUTIERREZ recently posted a picture of reloading ammunition on his Instagram (social media) account. GUTIERREZ’s Instagram username is “juanio74.” GUTIERREZ trained with other members of the California State Militia group at least every weekend or two. According to GUTIERREZ, training consisted of military-type training including marksmanship, weapons-handling, survival, and rappelling. GUTIERREZ stated there were many former U.S. military personnel in the California State Militia.

¹ The Norteños, meaning Northerner, are the various loosely affiliated street gangs that pay tribute to the Nuestra Familia while in Federal and State correctional facilities. Norteños refer to Northern California as Norte, Spanish for “North”. Their biggest rivals are the Sureños from Southern California.

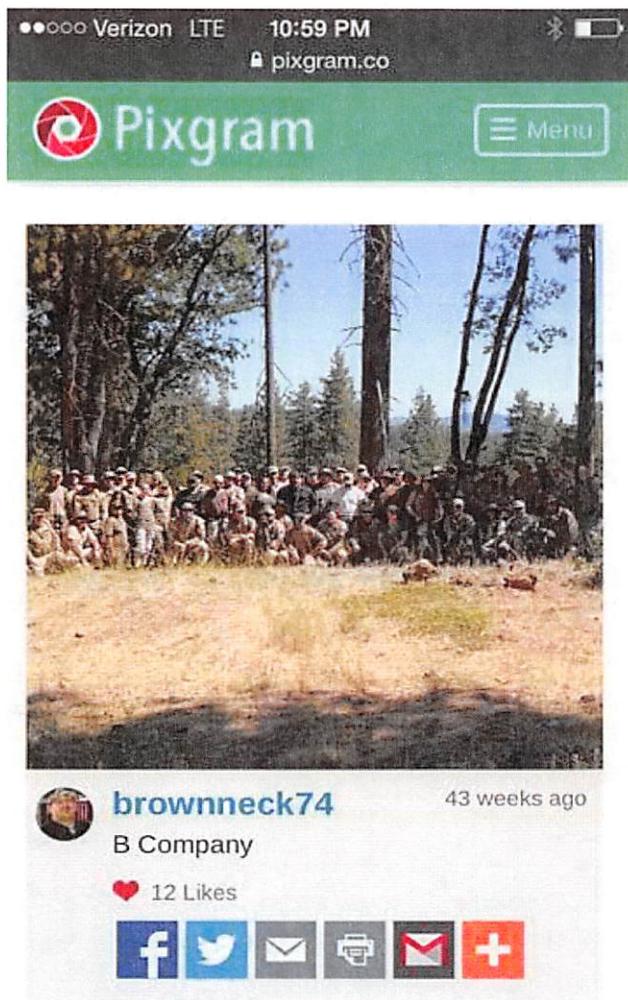
B. Background Investigation of JUAN GUTIERREZ

21. A search of popular social media sites revealed an Instagram² account for username “juanio74” belonging to JUAN GUTIERREZ. Beginning in February 2015, ATF monitored the “juanio74” Instagram account (username ‘juanio74’). On March 13, 2015, your affiant received information from an ATF Field Intelligence Group intelligence specialist Michelle Lawrie that GUTIERREZ’s “juanio74” is also linked to an Instagram account under username “brownneck74”. GUTIERREZ uses the same profile picture for his “juanio74”, “brownneck74”, and Facebook account under username “Juan Sanchez Gutierrez”. Subsequent investigation also revealed that GUTIERREZ held multiple social media accounts to include: Yooing.com (username “brownneck74”), Lookergram.com (username “brownneck74”), Pixgram.com (username “brownneck74”), and Enjoygram.com (username “brownneck74”).

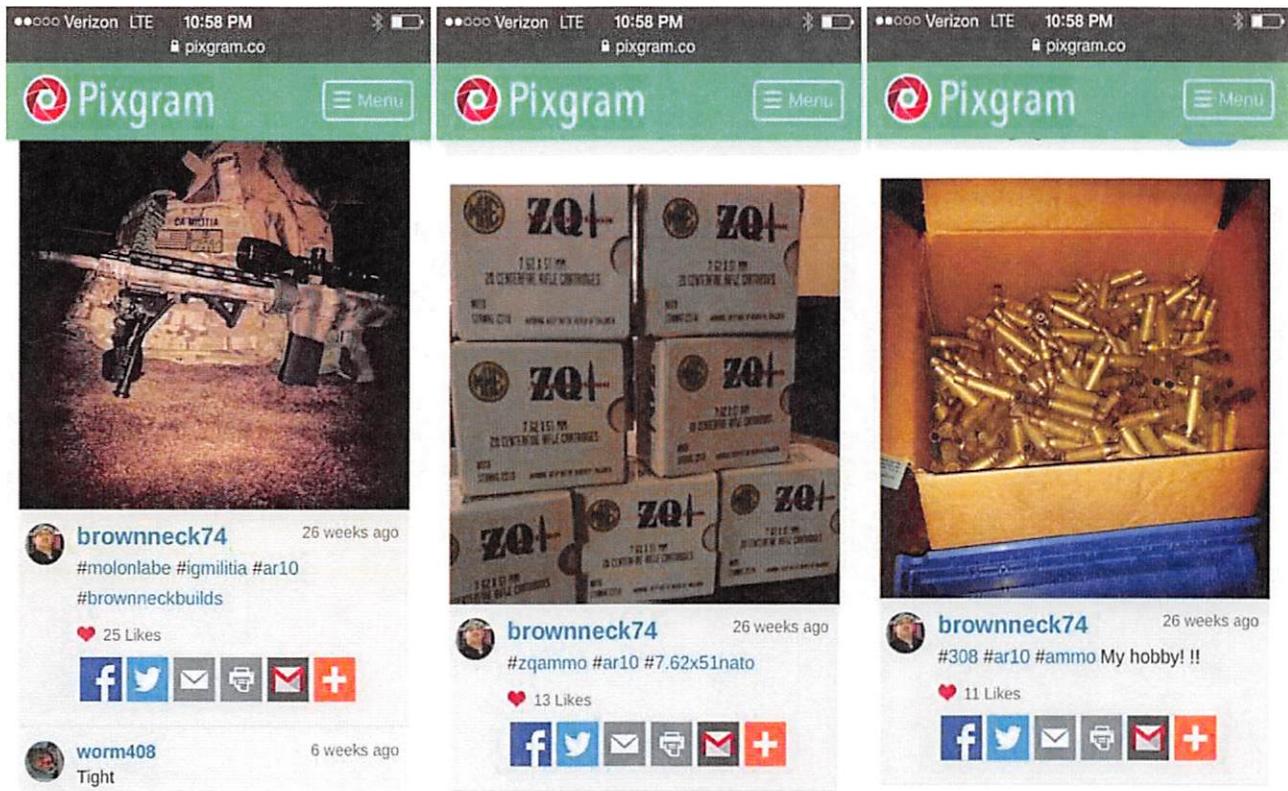
22. All the aforementioned social media accounts held by GUTIERREZ shared the same profile picture, depicted and shared photos of his anti-government statements, possession of an AR-10 rifle with a scope, possession of ZQ 7.62 x 51MM ammunitions, reloading .308 caliber ammunitions, California State Militia affiliation, training and indicia, and of him possessing and manufacturing firearms by utilizing a milling machine. All the information that GUTIERREZ posted on his social media accounts is self-claimed and is accessible by the public. The pictures and postings are from the screen captures conducted by the FBI and ATF from approximately October 2014 to the current date.

² *Instagram*: Instagram is an online mobile photo-sharing, video-sharing and social networking service that enables its users to take pictures and videos, and share them on a variety of social networking platforms, such as Facebook, Twitter, Tumblr and Flickr.

23. On or about June 2, 2014, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his California State Militia group on his “brownneck74” Pixgram social media account. In the picture, under the comment section of the picture, GUTIERREZ wrote “**B Company**”.



24. On or about October 20, 2014, GUTIERREZ posted three photos on his “brownneck74” Pixgram³ social media account. From left to right, GUTIERREZ shared and depicted a picture of an AR-10 type rifle with a scope with California State Militia indicia, ZQ 7.62 x 51MM ammunition, and .308 caliber ammunition cartridge casings. In the comment section under the first picture, GUTIERREZ wrote “#⁴molonlabe⁵ #igmilitia #ar10 #brownneckbuilds”. In the comment section under the second picture, GUTIERREZ wrote “#zqammo #ar10 #7.62x51nato⁶”. In the comment section under the third picture, GUTIERREZ wrote “#308, #ar10 #ammo”, with a comment “*My hobby!!!*”



³ **Pixgram:** Pixgram is an app that you can customize your own slideshow with photos and music.

⁴ **Hashtag (#):** People use the hashtag symbol (#) before a relevant keyword or phrase (no spaces) in their social media accounts to categorize those postings and help them show more easily in social media web searches. Clicking on a hashtagged word in any message shows you all other social media websites marked with that keyword.

⁵ **Molon labe:** Molon labe (Greek: μολὼν λαβέ), meaning "come and take them", is a classical expression of defiance.

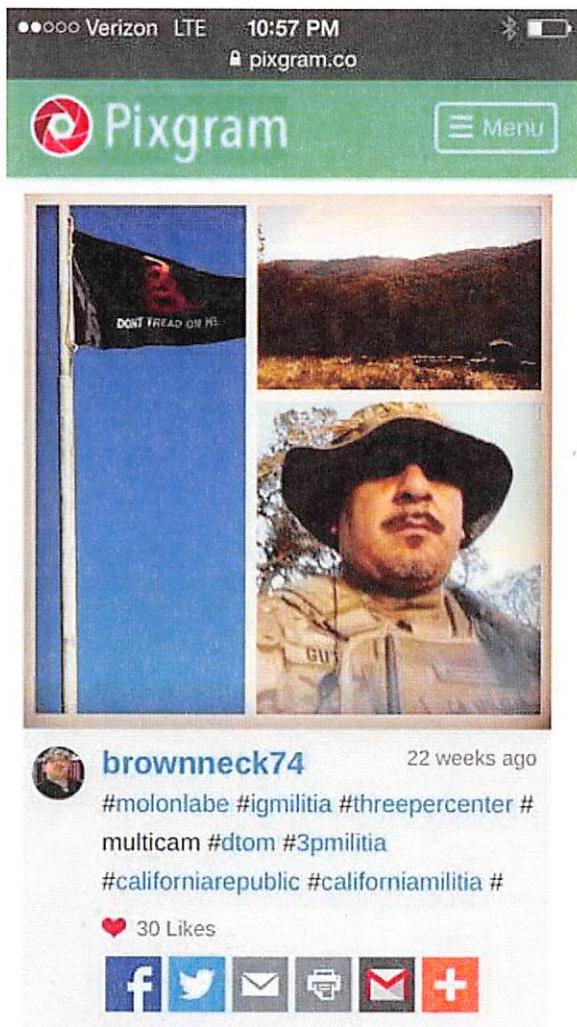
⁶ **7.962x51nato:** The 7.62×51mm NATO (official NATO nomenclature 7.62 NATO) is a rimless bottlenecked rifle cartridge developed in the 1950s as a standard for small arms among NATO countries.

25. On or about October 26, 2014, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of himself (self-claimed) shooting an AR-10 type rifle with a scope at an undisclosed location. In the comment section, GUTIERREZ wrote “#ar10 #308 #igmilitia #panochehills⁷ #roughingit”.



⁷ *Panoche hills*: The Panoche Hills are a low mountain range in the Southern Inner California Coast Ranges System, in western Fresno County, California. It also offers target shooting range areas.

26. On or about November 17, 2014, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of himself wearing a boonie hat and a tactical vest displaying California State Militia indicia with a Battle Dress Uniform showing two letters of his last name, “GU”, a picture of a Gadsden flag⁸, and an undisclosed hill/location. In the comment section, GUTIERREZ wrote “#molonlabe #igmlitia #threepercenter #multicam #dtom⁹ #3pmilitia #californiarepublic #californiamilitia”.



⁸ **Gadsden flag:** The Gadsden flag is a historical American flag with a yellow field depicting a rattlesnake coiled and ready to strike. Positioned below the rattlesnake are the words “Dont tread on me”. The flag is named after American general and statesman Christopher Gadsden (1724–1805), who designed it in 1775 during the American Revolution. It was also used by the Continental Marines as an early motto flag, along with the Moultrie Flag. In modern times, the Gadsden flag is often associated with libertarianism.

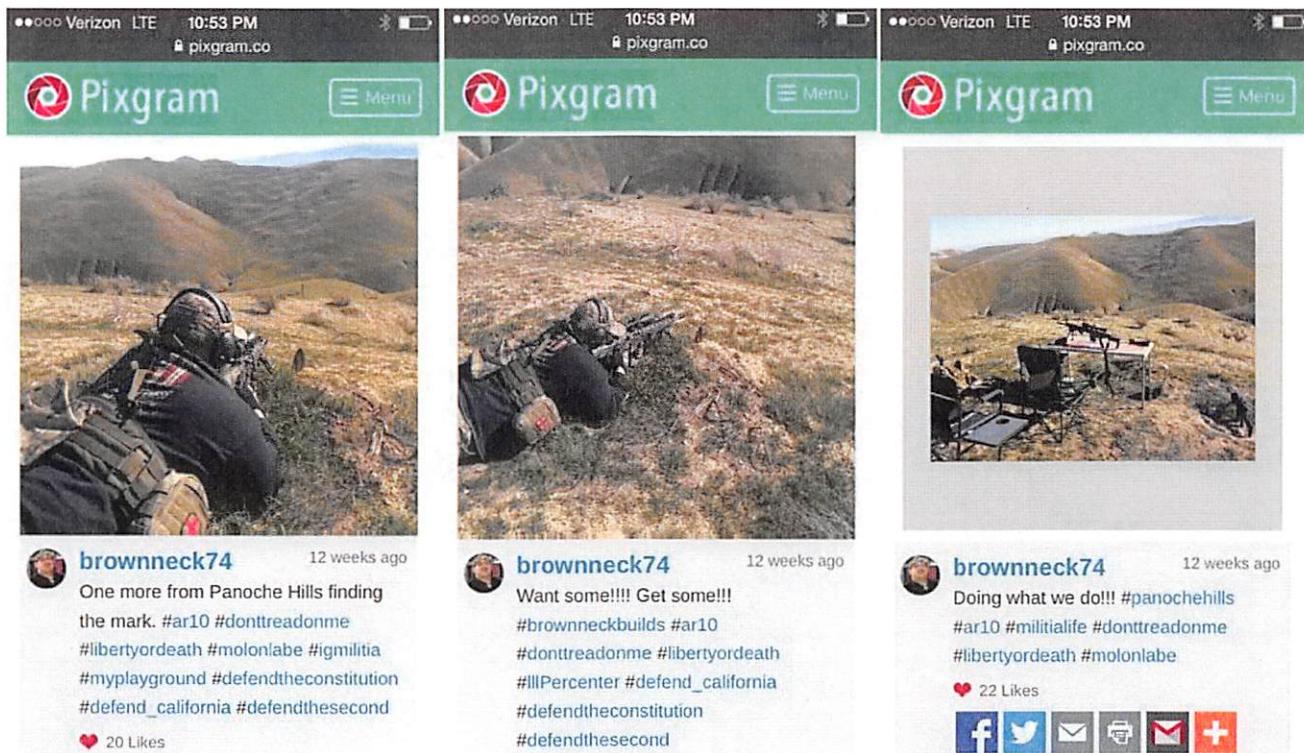
⁹ **#dtom:** “Don’t tread on me”

27. On or about Jan 19, 2015, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his 80% receiver in a NWDP brand jig template. In the comment section, GUTIERREZ wrote “#brownneckbuilds #illbuildmyown #donttreadonme #libertyordeath #IIIpercenter #ar15” with a comment, “*My new jig¹⁰!! If you don’t know what this is well!!!*”



¹⁰ As explained earlier, a “jig” is a metal piece that fits around the AR-15 blank. The “jig” serves as a pattern or guide so that the operator knows where to drill the holes into the AR-15 blank. Utilizing this process, the operator transforms the AR-15 blank into an AR-15 lower receiver by creating the precise shape and space necessary for the lower receiver to accept the parts that will allow the firing of a projectile. These shapes or cavities must be created to the exact specifications required. If these cavities are not formed to the exact specifications required, the firearm will not function. This process also creates the holes necessary to attach the upper receiver and barrel to the lower receiver. These parts (e.g. the hammer, bolt or breechblock, and firing mechanism) are the internal mechanical parts, that combine with a trigger, firing pin, and other parts to form a functioning firearm.

28. On or about January 26, 2015, GUTIERREZ posted three photos on his "brownneck74" Pixgram social media account. From left to right, GUTIERREZ shared and depicted two pictures of himself with tactical gear, shooting an AR-10 type rifle with a scope, and one photo of an AR-10 type rifle with a scope on a table. In the comment section under the first picture, GUTIERREZ wrote "***One more from the Panoche Hills finding the mark #ar10 #donttreadonme #libertyordeath #molonlabe #igmilitia #myplayground #defendtheconstitution #defend_california #defendthesecond***". In the comment section under the second picture, GUTIERREZ wrote "***Want some!!!! Get some!!!! #brownneckbuilds #ar10 #donttreadonme #libertyordeath #IIIPercenter #defend_california #defendtheconstitution #defendthesecond***". In the comment section under the third picture, GUTIERREZ wrote "***Doing what we do!!! #panochehills #ar10 #militialife #donttreadonme #libertyordeath #molonlabe***".



29. On or about March 2, 2015, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his .308 cartridge casings, a scale, tools, unknown bottle, and unknown manuals/booklets. In the comment section, GUTIERREZ wrote “*Reloading my own .308 #308 #reloading #imr4064¹¹ #leeclassic¹² #hornady¹³ #brownneckbuilds*”.



¹¹ **IMR 4064:** Production of IMR powders dates back over 200 years when the company was originally founded by E.I DuPont. Available for use in many reloading applications, the IMR series of powder is trusted by reloaders all across the globe. IMR 4064 is one of the most versatile propellant in the IMR line, used for 223 Remington, 22-250 Remington, 220 Swift, 6mm Remington, 243 Winchester Super Short Magnum, 308 Winchester, and 338 Winchester Magnum.

¹² **Lee classic:** Lee classic company manufactures a small turret press that is utilized to load cartridges with an overall length of 3.313” or less.

¹³ **Hornady:** Hornady Manufacturing Company is an American manufacturer of ammunition and hand loading components, based in Grand Island, Nebraska.

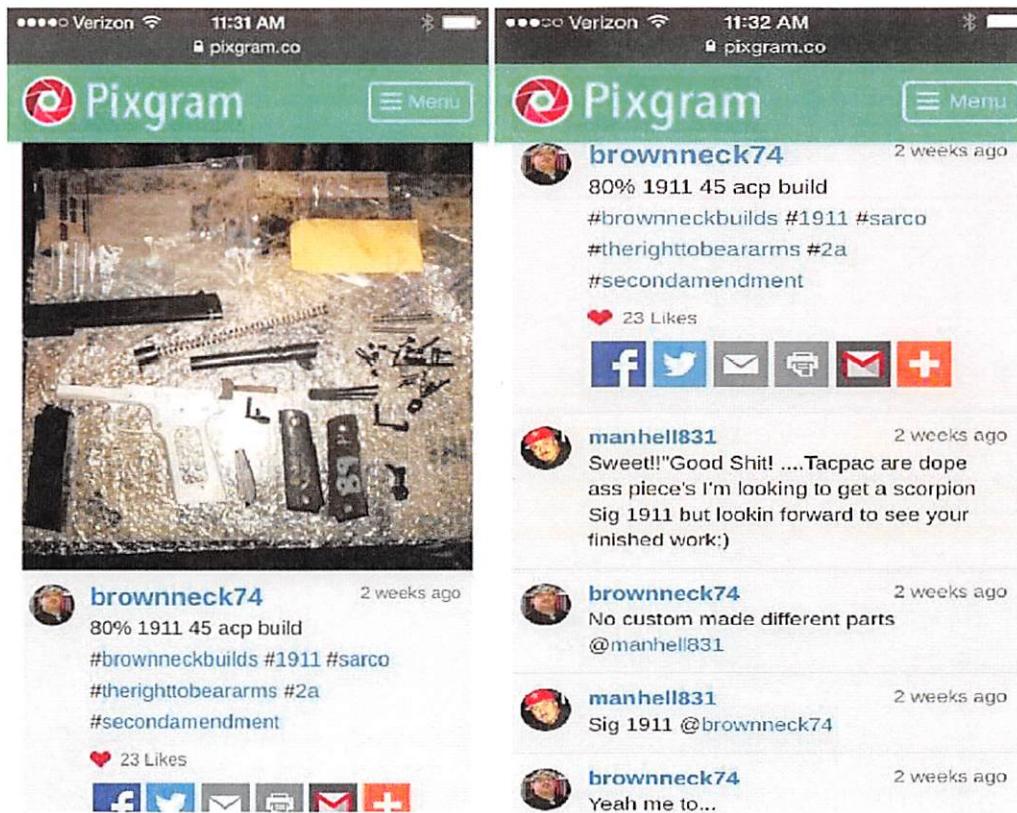
30. On March 5, 2015, your affiant and SA Oluwatoba Awolola met and interviewed CC1. Per CC1, GUTIERREZ had successfully procured and manufactured a weapon: an AR type machinegun and ammunitions. CC1 told your affiant and SA Awolola that after GUTIERREZ had manufactured a firearm, GUTIERREZ expressed his interest in obtaining more weapons. According to CC1, GUTIERREZ was leaving on March 6, 2015 on a trip to Lake Tahoe to pick up a milling machine to aid in his firearms manufacturing operation.

31. Shortly after interviewing CC1, on or about March 9, 2015, your affiant noticed a new photo posting on GUTIERREZ's "brownneck74" Pixgram social media account. GUTIERREZ shared and posted a picture of his Sherline mini milling machine with an 80% receiver on a jig template. In the comment section, GUTIERREZ wrote "***My new addition Sherline Mini Mill¹⁴ Made in USA #brownneckbuilds #sherline #milling #80percent #minimill #gunsmithing #igmachinist #norcalmade #littlemachineshop***".



¹⁴ **Sherline mini mill:** Sherline manufacturer offers the complete line of mini bench-top precision manual and CNC lathes, milling machines and machine shop accessories for light industrial and home shop use. By using a milling machine, the equipment operator drills, cuts, or mills cavities in specific locations on the AR-10/15 blanks.

32. On or about April 23, 2015, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his 80% 1911 .45 caliber acp handgun kit. Under the comment section of the picture, GUTIERREZ wrote, “**80% 1911 45 acp**¹⁵ build #brownneckbuilds #1911 #sarco¹⁶ #therighttobeararms #2a¹⁷ #secondamendment”. Online messages were exchanged between GUTIERREZ and “manhell831”. “manhell831” commented on GUTIERREZ’s posted picture stating, “Sweet!! Good Shit!.... Tacpac are dope ass piece’s I’m looking to get a scorpion Sig 1911¹⁸ but lookin forward to see your finished work :) and Sig 1911 @brownneck74”. GUTIERREZ replied to “manhell831” stating, “*No custom made different parts* and *Yeah me to....*”



¹⁵ **1911 45 acp:** The 1911 is a single-action, semi-automatic, magazine-fed, recoil-operated pistol chambered for the .45 ACP cartridge.

¹⁶ **Sarco:** Sarco Inc. is one of the largest suppliers of guns, gun parts, and gun accessories located in Easton PA. Sarco Inc. also sells 1911 .45 caliber acp build kits.

¹⁷ **#2a:** 2nd Amendment

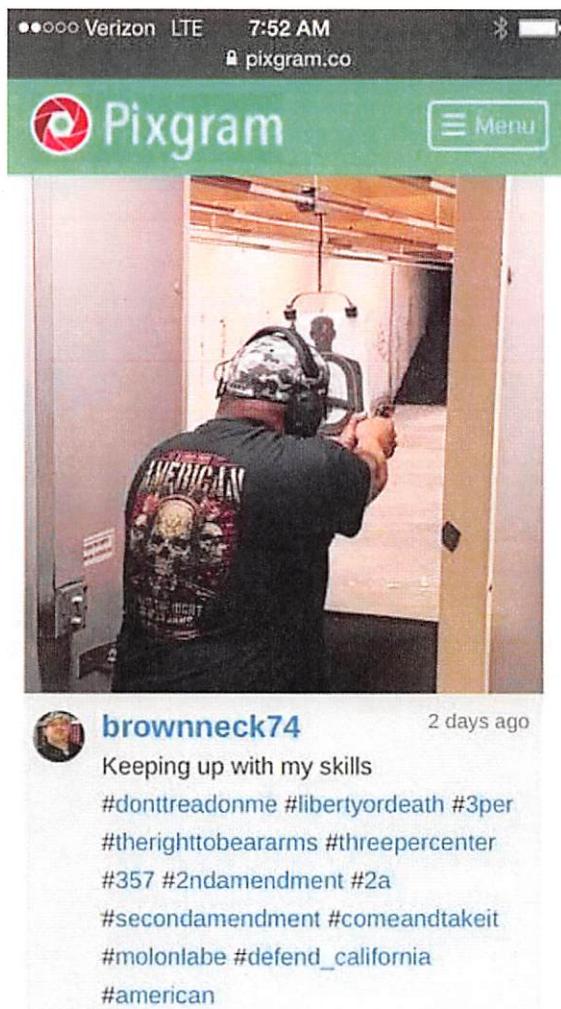
¹⁸ **Sig Scorpion/Tacpac 1911:** The Sig Scorpion/Tacpac 1911 is referred to a single-action, semi-automatic, magazine-fed, pistol that is manufactured by “Sig Sauer” firearms manufacturer.

33. On or about May 9, 2015, GUTIERREZ shared and posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his AR-10 rifle bolt carrier group¹⁹. Under the comment section of the picture, GUTIERREZ wrote “*Needed some cleaning #308 #ar10 #boltcarriergroup*”.



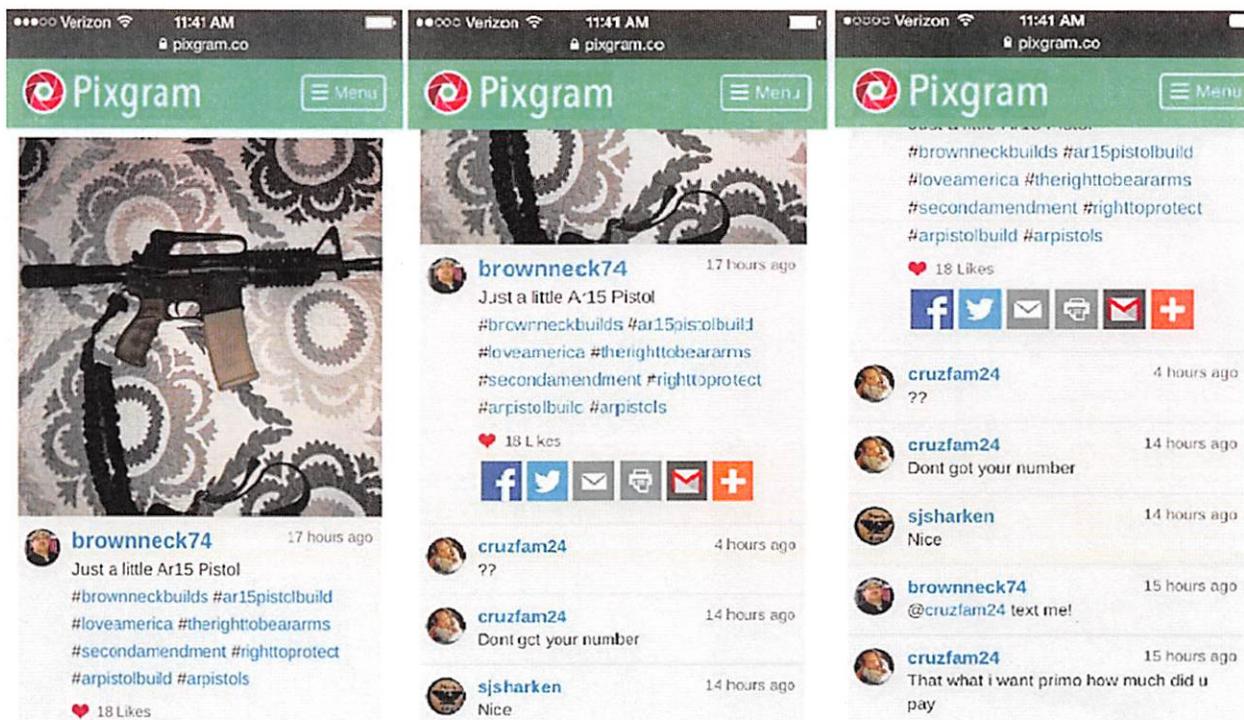
¹⁹ **Bolt carrier group:** The bolt carrier group is often found in gas-operated weapons such as AR-10. It is an integral part of a firearm that performs the cyclic functions of the weapon to include feeding, chambering, locking, firing, unlocking, ejecting, and cocking of the firearm. The bolt carrier group is sent forward in an upper receiver of a firearm, feeding another cartridge/ammunition and repeating the process.

34. On or about May 13, 2015, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of himself (self-claimed) shooting from an undisclosed shooting range. Under the comment section of the picture, GUTIERREZ wrote “*Keeping up with my skills* #donttreadonme #libertyordeath #3per #therighttobeararms #threepercenter #357²⁰ #2ndamendment #2a #secondamendment #comeandtakeit #molonlabe #defend_california #american”.



²⁰ 357: 357 is a common terminology that is used for a revolver that chambers .357-inch (9.07mm) ammunition cartridge.

35. On or about May 19, 2015, GUTIERREZ posted a photo on his “brownneck74” Pixgram social media account. GUTIERREZ shared and depicted a picture of his AR-15 pistol. Under the comment section of the picture, GUTIERREZ wrote, “*Just a little Ar15 Pistol*²¹#bronneckbuilds #ar15pistolbuild #loveamerica #therighttobeararms #secondamendment #righttoprotect #arpistolbuild #arpistols”. Online messages were exchanged between GUTIERREZ and “cruzfam24”. “cruzfam24” commented on GUTIERREZ’s posted picture stating, “?? don’t got your number That what I want primo how much did you pay”. GUTIERREZ replied to “cruzfam24” stating, “@cruzfam24 text me!”



²¹ *AR-15 pistol*: AR pistols are AR-15 platform firearm that fires 5.56mm round ammunition. Comparing to the conventional AR-15 rifle, it has a shorter barrel and a “pistol” buffer tube that does not allow for the attachment of traditional stock.

36. A National Crime Information Center query of JUAN GUTIERREZ with a date of birth of March 11, 1974 revealed FBI record number 769349PA5. GUTIERREZ is described as a white male with brown hair and brown eyes with a height 5 feet 9 inches, weighing 170lbs. California criminal records indicate GUTIERREZ was arrested in 1992 for a violation of Health and Safety (HS) Code 11359: Possession of marijuana for sale; 1993 for a violation of Penal Code (PC) 460.2: Second degree burglary; and 2005 for violation of PC 243(E): Battery of spouse.

37. According to a certified conviction docket received on March 27, 2015, GUTIERREZ pled guilty to a felony possession of marijuana and was sentenced to 60 days in jail, probation, and a fine in 1992; pled guilty to a felony second degree burglary and was sentenced to 120 days jail, probation, and a fine in 1993; and pled no contest to misdemeanor fighting and spousal battery in 2005 and was sentenced to fines, anger management classes, and probation.

C. Items Found at Residence of Juan Gutierrez Pursuant to Search Warrant

38. On June 2, 2015, at 0600 hours, ATF and the United States Marshals Service executed a search warrant at GUTIERREZ's residence, 863 Benton Street, Santa Clara, CA 95050, and in a vehicle associated with GUTIERREZ. The following relevant items were found:

- 1 AR type pistol (no serial number)
- 1 AR type .208 caliber rifle (no serial number)
- Assorted ammunition with magazines
- Reloaded ammunition cartridges
- One 80% receiver under construction
- 3 bottles of smokeless gunpowder
- 2 drill presses
- 2 jigs
- Instruction manuals for the jigs
- Various California State Militia indicia
- A shooting target
- 2015 Cross Road Gun show flyer

- A cellular phone with telephone number 408-661-1489
- Labeled diagram or blueprint for a pistol
- Camo belt with two small packs attached with a red cross depicted on one pack

VI. CONCLUSION

40. For the reasons stated above, I believe that probable cause exists to believe that, from August 2014 to the current date, JUAN GUTIERREZ manufactured and possessed firearms and ammunition in violation of 18 U.S.C. § 922(a)(1)(A) and 18 U.S.C. § 922(g)(1). Your affiant seek the issuance of an arrest warrant for those offenses. I respectfully request that the Court issue the requested arrest warrant.

Under penalty of perjury, I swear the foregoing is true and correct to the best of my knowledge.



TAE-KYUN KIM
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to before me this
2 day of June 2015.



HONORABLE NATHANAEL M. COUSINS
United States Magistrate Judge